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09/941,590	08/30/2001	Naoki Kuwata	MIPFP006	6411

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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

EXAMINER

AGGARWAL, YOGESH K

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2622

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/941,590	KUWATA ET AL.
Examiner	Art Unit	
Yogesh K. Aggarwal	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 November 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 8-20,23-37,43-51,54 and 55 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 8-20,23-37,43-51,54 and 55 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. ____ .
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ . 5) Notice of Informal Patent Application
6) Other: ____ .

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/02/2007 has been entered.

Response to Arguments

2. Applicant's arguments filed 11/02/2007 have been fully considered but they are not persuasive.

Examiner's response:

3. Applicant argues with regards to claims 8, 13, 15, 17, 19, 20, 28, 30, 34, 36, 43, 45, 54 and 55 that the Ohkubo reference discloses a technique for preparing a desirable LUT. This technique is not something that one having ordinary skill in the art could readily apply to the Kuno reference, which discloses a digital still camera. The Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Kuno teaches generating image data and color space information by a digital still camera (camera 1, see figures 1 and 16-18, col. 1 lines 10-15) that is used by an image output apparatus and stores the image data in association with color space information (col. 12 lines 3-65, figures 16-19). Ohkubo was merely used to teach that the image output characteristics of the image output apparatus are used

for color space conversion. Therefore in the combination of references, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have used the image output characteristics of the image output apparatus are used for color space conversion taught by Ohkubo into the system of Kuno and stored in association with image data. The motivation of doing so is taught in Ohkubo so as to generate an image having a preferable tone of color on the output media. The test whether two references can be combined is not if the two references teach to correct the same problem, rather if the proposed modification or combination of the prior art changes the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)[See MPEP 2143.01 (VI)]. In this case, both Kubo and Ohkubo try to solve the same problem i.e. color space conversion for an image output apparatus. Therefore the proposed modification or combination of the prior art does not change the principles of operation of the prior art invention being modified.

4. Applicant argues that the Ohkubo reference dynamically performs color matching in a computer system, and none of the applied references provides any technical suggestion of applying this technique to a digital camera. The Examiner respectfully disagrees. Examiner is not trying to modify the digital camera of Kubo into a computer system of Ohkubo to establish a *prima facie* case of obviousness, rather only trying to establish the fact that the problem they are trying to solve namely "conversion of color space for an output apparatus" is reasonably pertinent to the problem with which appellant is involved, and would have commended themselves to anyone addressing such a problem *In re Clay*, 966 F.2d 656, 658, USPQZd 1058, 1060 (Fed. Cir. 1992). A computer as in Ohkubo and the digital camera of Kubo are within the

field of the inventor's endeavor because they are both microprocessor controlled devices. Even if they are not within the same field of endeavor, it is found that the references are reasonably pertinent to the problem with which appellant is involved, namely, "conversion of color space for an output apparatus", and would have commended themselves to anyone addressing such a problem. Applicant's argument concerning the substitution of computer device of Ohkubo for the digital camera is without merit in that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. Nor is the test that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to the skilled artisan. *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In view of the foregoing, there is no impermissible hindsight or non-analogousness being used to demonstrate the obviousness.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 11-18, 23, 27-30, 33-38, 43-45, 51 and 54- 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuno et al. (US Patent # 6,538,242) in view of Ohkubo (US Patent # 7,136,187).

[Claim 8]

Kuno et al. teaches a method of generating an image file in a digital still camera comprising (figure 1 and 16-18, camera 1, col. 1 lines 10-15) comprising generating image data (col. 5 line 64-col. 6 line 4, col. 11 line 60-col. 12 line 2); generating an image file containing image data generated in generating step and information that designates color space information to be used by an image output apparatus separated from said still digital camera (spectral responsivity characteristic used for conversion of color space as taught in col. 6 lines 60-65, (col. 12 lines 3-65, figures 16-19) of said image data from an input color space to an output color space by said image output apparatus (col. 12 lines 3-65, figures 16-19); and storing said image data in association with said information that designates said color space information (col. 12 lines 45-65).

Kuno fails to teach information that reflects image output characteristics of said image output apparatus and used for color space conversion. However Ohkubo teaches at col. 7 lines 12-30, figure 1, coordinate values Lab (Output) derived through conversion by the LUT 50 are converted into the RGB data for an output device 70 such as a digital printer in accordance with an output media characteristic conversion defined by an output media characteristic conversion definition 52 based on output characteristics of the output device 70. The output device 70 outputs an image to an output media 71 such as a printing paper.

Therefore taking the combined teachings of Kuno and Ohkubo, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have information that reflects image output characteristics of said image output apparatus and used for color space conversion to be used in the system of Kuno as taught in Ohkubo in order to generate an image having a preferable tone of color on the output media as taught in Ohkubo (col. 7 lines 22-24).

[Claim 11]

Kuno teaches a step of assembling an output file that contains said image data, and said color space information (col. 12 lines 49-65, figures 16-19).

[Claim 12]

Kuno teaches an interface for communicating said output file to said external device (col. 11 line 60-col. 12 line 2, figure 16).

[Claim 13]

Claim 13 is similar to claim 1 except means for designating with color space information an output color space to be used by an image processing apparatus in color space conversion, said image processing apparatus being a different apparatus than said means for acquiring data (spectral responsivity characteristic used for conversion of color space as taught in col. 6 lines 60-65, col. 12 lines 3-65, figures 16-19).

[Claim 14]

The second color space (RGB) has a gamut width at least equal to a color space like RGB (col. 12 lines 55-65, RGB color space used in the synthesis of the image data which inherently has a gamut width at least equal to a color space like RGB or CMYK).

[Claims 15-17]

Claims 15-17 corresponds to claims 8, 11-14 and are therefore analyzed and rejected the same as previously discussed with respect to claims 8, 11-14.

[Claim 18]

Kuno teaches matrix values used for color spaces (col. 13 lines 19-59).

[Claim 23]

Claim 23 recite what was discussed with respect to claim 4.

[Claim 27]

Kuno teaches a communication cable or network for communicating said output file to said external device (col. 11 line 60-col. 12 line 2), which would inherently be transmitted as an electric signal.

[Claims 28-29]

Claims 28 and 29 recite what was discussed with respect to claims 6 and 7.

[Claims 30, 33-35]

Computer program storing claims 30, 33-35 corresponds to apparatus claims 1, 4, 6 and 7 and are therefore analyzed and rejected the same as previously discussed with respect to apparatus claims 1, 4, 6 and 7 respectively.

[Claim 45]

Kuno teaches an image processing apparatus for performing image processing on image files containing image data and color space information, said image data and said color space information being input from an independent image data generating apparatus, comprising: means for acquiring an image file containing image data; means for retrieving said color space information from said image file acquired by said means for acquiring, wherein said color space information designating color space conversion (spectral responsivity characteristic used for conversion of color space as taught in col. 6 lines 60-65) designates a color space from an input color space to an output color space by an image processing apparatus; and means for converting the color space of said image data based on said color space information retrieved by said means for retrieving (col. 12 lines 3-65, figures 16-19).

[Claims 36 and 43]

Computer program storing claim 36 and method claim 43 correspond to apparatus claim 38 and are therefore analyzed and rejected the same as previously discussed with respect to apparatus claim 38.

[Claims 37 and 44]

Computer program storing claims 37 and 44 correspond to apparatus claim 39 and are therefore analyzed and rejected the same as previously discussed with respect to apparatus claim 39.

[Claim 51]

Kuno teaches a communication cable or network for communicating said output file to said external device (col. 11 line 60-col. 12 line 2), which would inherently be transmitted as an electric signal.

[Claim 54]

Kuno et al. teaches a digital still camera (figure 1 and 16-18, digital still camera 1, col. 1 lines 10-15) comprising means for generating image data (col. 5 line 64-col. 6 line 4, col. 11 line 60-col. 12 line 2); means for generating color space information designating color space conversion (spectral responsivity characteristic used for conversion of color space as taught in col. 6 lines 60-65) of said image data from an input color space to an output color space by an image processing apparatus separated from digital still camera (col. 12 lines 3-65, figures 16-19); and means for storing said image data in association with said color space information (col. 12 lines 45-65) and the image processing apparatus (figure 16, image output device 15), including means for acquiring the image file containing the image data and the color space information, means for retrieving said color space information from said image file, and means for converting the color

space of said image data based on said color space information retrieved by said means for retrieving (col. 12 lines 45-65).

[Claim 55]

Claim 55 recites what was discussed with respect to claims 17 and 54.

[Claim 56]

Claim 56 recite what was discussed with respect to claims 13, 17 and 54.

7. Claims 2, 3, 9, 10, 19, 20, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuno et al. (US Patent # 6,538,242), Ohkubo (US Patent # 7,136,187) and in further view of Nakajima (US Patent # 6,650,437).

[Claims 2 and 3]

Kuno in view of Ohkubo fails to teach means for designating color space information includes means for displaying said plurality of items of color space information, and means for selecting one item of color space information from among said displayed items of color space information.

However Nakajima teaches an image information exchanger device 14 like a PC (col. 11 lines 35-42) has a hard disk 88 that functions as a spool 90 (col. 11 lines 49-56) and is a means for storing a plurality of items of color space information designated for different types of color spaces and a plurality of combinations of identifying information (e.g. different values of color space =1,2,3 corresponds to LUT1, LUT2 and LUT3) for candidate image processing apparatuses (different types of scanners A, B and C) and associated color space information for each candidate image processing apparatus (col. 15 lines 10-64, figure 5). A image information exchanger device 14 which is a PC as stated (col. 11 lines 35-42) has a display device 56 and keyboard 58 like one shown in figure 2 which can inherently be used as a means for designating

color space by displaying said plurality of items of color space information on the monitor 56, and selecting one item of color space information (by designating color space values 1, 2 or 3) and candidate image processing apparatuses from among the color spaces (LUT 1, LUT2, LUT3) and candidate image processing apparatuses (scanners A, B and C) information by the keyboard 56 which are stored in the hard disk.

Therefore taking the combined teachings of Kuno, Ohkubo and Nakajima, it would have been obvious to one skilled in the art to have been motivated to have means for designating color space information includes means for displaying said plurality of items of color space information, and means for selecting one item of color space information from among said displayed items of color space information in order for the user to visualize the color display information on the display thereby making it more user-friendly.

[Claims 9-10,19-20]

Claims 9, 10, 19 and 20 recite what was discussed with respect to claims 2 and 3.

[Claims 31, 32]

Computer program storing claims 31 and 32 corresponds to apparatus claims 2 and 3 and are therefore analyzed and rejected the same as previously discussed with respect to apparatus claims 2 and 3 respectively.

8. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuno et al. (US Patent # 6,538,242), Ohkubo (US Patent # 7,136,187) and in further view of Anabuki (US Patent # 6,441,913).

[Claim 46]

Kuno in view of Ohkubo fails to teach said color space information is not retrieved, said means for converting the color space converts the color space of said image data based on predetermined color space information. However Anabuki teaches that if the image structure information is not present, the image-structure information may be extracted from the whole image data or preset values may be used for the image structure portion (col. 7 lines 52-56).

Therefore taking the combined teachings of Kuno, Ohkubo and Nakajima, it would have been obvious to one skilled in the art to have been motivated to have used predetermined color space to process the image data if the color space information is not retrieved which reduces the overall load on the CPU making the process easier.

9. Claim 26 and 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuno et al. (US Patent # 6,538,242), Ohkubo (US Patent # 7,136,187) and in further view of Buhr et al. (US Patent # 5,528,339).

[Claim 26]

Kuno teaches the limitations of claim 17 but fails to teach wherein the memory is a removable memory card. However Buhr teaches that the image data and color space are stored on a Kodak photo CD or a PCMCIA card (col. 26 lines 14-25, col. 14 lines 40-45) in order to have a portable memory medium which can be easily be carried to any other device capable of color space conversion. Therefore taking the combined teachings of Kuno, Ohkubo and Buhr, it would have been obvious to one skilled in the art to have been motivated to have the image data and color space are stored on a PCMCIA card in order to have a portable memory medium which can be easily be carried to any other device capable of color space conversion

[Claims 47-49]

Claims 47-49 recite what was discussed with respect to claims 40-42.

[Claim 50]

Buhr teaches in figure 17 a third color space, CIELAB (col. 29 lines 42-61).

10. Claims 16, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuno et al. (US Patent # 6,538,242), Ohkubo (US Patent # 7,136,187) in view of Parulski et al. (US Patent # 6,310,647).

[Claims 16 and 24]

Kuno teaches the limitations of claims 15 and 23 but fails that the propagated file structure is an Exif file structure. However Parulski et al. teaches an image file format that is compatible with both Flashpix and Exif (col. 3 lines 49-65) in order to have a standard (exif) that can be opened by any computer application that incorporates a JPEG reader which is a widely used standard compared to Flashpix that is relatively new.

Therefore taking the combined teachings of Kuno, Ohkubo and Parulski, it would have been obvious to one skilled in the art to have been motivated to have used an Exif file structure instead of Flashpix in order to have a standard (exif) that can be opened by any computer application that incorporates a JPEG reader which is a widely used standard compared to Flashpix that is relatively new.

[Claim 25]

Parulski teaches in Table 2 an Exif application marker (read as tag stored in a makernote portion) storing color space values (col. 4 line 66).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571)-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YKA

January 21, 2007

